



## Legislative Summary 2008

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### 2008 Events Hosted by Rep Berg

Legislative Visitation  
Illinois and Arkansas  
Nat'l Conference of State Legislatures  
January 7-11

Opening Day Office Reception  
January 16

Community Forum at Kahala School  
"Global Climate Change Impact"  
March 11

4th Annual Human Rights Day at the  
Capitol: "...And Justice For All"  
March 13

Youth Legislative Shadow Day  
"Leader for a Day" Program  
March 13

State Spelling Bee Pronouncer  
March 16

Early Childhood Education  
Sessions with Pre-K Now  
March 17 - 19

Youth Pulse Forum on "Youth Suicide"  
Waikoloa, Big Island  
April 12

Honorary Chairperson  
"Taste of East Honolulu"  
Calvary By The Sea Fundraiser  
April 19

Aloha 'Aina Community Recycle Day  
Hawaii Kai Boatramp  
June 28

Aloha Dear Friends and Neighbors,

Thank you for the honor and privilege to continue serving you in the Hawaii State Legislature!

Re-commencing the second year of the 24th Legislative Session was filled with much activity and hope. I have been unwavering in my perspective that an integrated, coherent approach to legislation is the most beneficial to our communities, and I am happy to share with you that to a large extent, there was reasoned legislation that passed by the end of this session.

The participation of citizens in the legislative process at Neighborhood Board meetings, in our Community Forums, and with on-line dialogues has been invigorating and very helpful to my decision-making. I am also grateful to so many of you for assisting with the various events that my office has hosted during this past Session. More students are now visiting the Capitol, and I believe that their authentic engagement will be meaningful for all of our future endeavors.

I will continue to keep our community's best interests and concerns at the center of the work that I do during the Interim—and look forward to convening community forums, again, prior to the Legislative Opening in January 2009. As always, my office staff and I are available and welcome your questions, suggestions, and ideas for future legislation that can preserve what we value most about Hawaii. Our collective efforts, in collaboration with business and government, CAN result in a strong, diverse economy based on local enterprise that enhances the wellness of our environment and the engagement of our citizens.

I remain committed to our children, families, and Hawaii's "sense of place" in the world. Thank you for your confidence and support.

With warmest aloha and appreciation,



### Community Leadership Activities

- ◆ Appointed as Hawaii Delegate to Association of Pacific Island Legislators (April)
- ◆ Advisory Committee Member  
"Quest for Global Healing" Conference 2009
- ◆ Legislative Member—2008 Peace Day Hawaii Committee

- ◆ Volunteer Facilitator—"Teachers Without Borders" Program (South Africa and China)
- ◆ Chair, 2007 "Leader for a Day" Essay Program
- ◆ Keynote Speaker, Western Region Conference Alpha Delta Kappa Education Women's Sorority (July 2008)
- ◆ Keynote Speaker, Youth Leadership Conference, Hawaii Community College—Hilo (May 2008)

# Our Community Concerns

## ***Kahala: State-City Cooperating To Address Encroaching Beach Vegetation***

In what has become landmark collaboration, City and State officials are cooperating with community groups to remove beach front vegetation that is accelerating erosion along the Kahala coastline between Hunakai Street and Waialae Beach Park.

Rep. Berg has consistently backed the joint effort, which began in response to requests from the Kahala Community Association and Waialae Kahala Neighborhood Board. Both groups have been involved in the ongoing discussions.

Sam Lemmo, Administrator of the Department of Land and Natural Resources Office of Conservation and Coastal Lands, explained that homeowners need to keep an eye on the spread of vegetation. Many believe that the roots of shoreline plants, such as Beach Naupaka, will stabilize the sand and prevent beach erosion. The contrary is actually the case: vegetation acts like a seawall, preventing the natural ebb and flow of sand with the tides, wind, waves, and seasons, thereby blocking the natural return of sand and eventually causing sand to be lost and the beach to shrink.

A 2/19/08 memo from Henry Eng, Director of C&C Department of Planning and Permitting, announced increased enforcement efforts to prevent landowners from trying to extend their properties by landscaping into beach areas beyond the certified shoreline. Eng said the elimination of vegetation extending seaward will now be a required condition for applications for permits or variances.



*Example of vegetation encroachment on the Kahala shoreline*

## ***Aina Haina/Kaimuki: Adult Residential Care Home Issues***

The 2008 Legislature failed to take any action to assist communities coping with the spread of adult residential care homes (ARCHs) in residential neighborhoods.

The issue has been of concern to residents near planned care homes in Aina Haina and Kaimuki, as well as other parts of Oahu.

Rep. Berg's Bill (HB 2433) would have required a public hearing before licensing new ARCH facilities and was supported by the Aina Haina Community Association, Kuli'ou'ou/Kalani Iki Neighborhood Board #2 and a number of concerned individuals.

The State Department of Health testified against the measure, saying that it has no jurisdiction over the location of ARCHs within a community, and does not take into account "the location of the ARCH, proximity to other homes, or the prevailing support or opposition of the surrounding community" when making licensing decisions. This issue will remain until a reasonable solution is found.

## ***Kuli'ou'ou: Preserving Ancient Fishponds***

Rep. Berg has asked State Attorney General Mark Bennett whether two ancient fishponds in East Honolulu, currently controlled by the Department of Transportation and scheduled for disposal, can be sold at less than market value or transferred to another agency or nonprofit organization for cultural preservation and educational use:

Kuliwai Spring (Paiko Pond) is a royal pond eligible for listing on the National Historic Register; Lucas Spring is at the site of Kamehameha I's former summer home and taro io'i.

"It would be a dream come true if East O'ahu could have its own rejuvenated fishponds with cultural and educational programs offered for our residents, especially area schools," Rep. Berg wrote.

## ***Hawaii Kai/Kahala/Kaimuki: Rep. Berg's Persistence Pays Off With Bikeway Report***

In 1995, the Legislature passed a bill requiring the Department of Transportation to submit an annual report on its "bikeway expenditures and current projects."

When Rep. Berg requested a copy of the most recent report in order to respond to a constituent inquiry, DOT couldn't produce it. A search of the Legislative Reference Bureau library failed to find any trace of any prior report. It appears the reporting requirement was simply ignored for more than a dozen years.

In March 2008, however, a 2-page report was finally published. DOT identified "five stand alone bikeway projects and eight additional projects that included bicycle improvements" with expenditures during the 2007 fiscal year. Total expenditure of federal funds for bikeway-related projects in 2007 was just over \$4 million for the year, or 4.7% of eligible federal funds, according to DOT. Improvements for bike lanes on Waialae Avenue from 17<sup>th</sup> to 21<sup>st</sup> Aves and Kealaolu Avenue to Kalaniana'ole Highway were among the projects identified.



## ***Niu Valley: City/State Partnership for Play Space***

The community's dream of a new playground adjacent to the tennis courts behind Niu Valley Middle School is a step closer to reality. Rep. Berg was successful in moving \$200,000, earmarked for design and construction of the playground, where to the C & C Dept. of Parks and Recreation who will oversee the project. The transfer was included in the final version of the budget approved by House and Senate. The money was originally in the DOE budget, but city-state jurisdictional issues proved to be an obstacle. Now that the funds are designated for city use, Parks & Rec can combine this new funding with Rep. Berg's \$100,000 appropriation from 2006.

For years, supporters have argued that Niu Valley is the only East Honolulu community without playground equipment for children of different ages. The project has the support of the Kuliouou-Kalani Neighborhood Board #2 with strong community backing. Focus now is on convincing Gov. Lingle to release the first round of funding before it lapses at the end of June 2008.

# Legislation for Enhanced Quality of Life

## Environmental Wellness

Representative Berg introduced **HB 2434**, requiring retailers in the State to distribute only recyclable, reusable, or compostable check-out bags, at the start of the 2008 Legislative Session. Although her bill did not move forward this session, Rep Berg's proposed legislation on plastic bags and Styrofoam launched conversations on these important environmental issues within the Legislature, the county levels and in communities..

A Honolulu Advertiser editorial (2/06/08) referred to Rep. Berg's initiating efforts by suggesting that the legislature look at "...passing some legislation that may not be on the public's wish list but is in the public's best interest." Rep. Berg will continue to work on this issue and looks forward to working with other communities who have adopted significant consumer changes to address beach litter and the looming landfill crises on all islands.



**HB 2917:** Allows vessels with a mooring permit for either Kewalo basin or Honolulu harbor to moor in the other harbor under certain conditions.

**HB 3177:** Increases the maximum penalty for violations within the conservation district.

**SB 2843:** Establishes the electronic device recycling fund.

**HB 2955:** Establishes an archaeological data survey as an online database program under the State of Hawaii Museum and Natural and Cultural History.

**SB 988:** Authorizes the public utilities commission to establish a ratepayer-funded photovoltaic rebate program.

**SB 871:** Requires the department of education, in a partnership with the department of health, to establish a three-year food waste recycling pilot project in one or more public schools

## Business and Consumer Concerns

**HB 2326:** Regulates so-called distressed property consultants, sometimes known as "mortgage rescuers", who charge a high fee, often do little or no work, and employ deceptive tactics that sometimes lead to the homeowner having to deed their property to the mortgage rescuer.

This measure addresses both forms of trickery by requiring the consultants to provide homeowners with a written contract spelling out their services and by giving the homeowner the right to cancel at any time before all of the promised services are actually performed.

**SB2454:** Requires lenders using the non-judicial foreclosure process to have a Hawaii attorney as a local contact and to provide pertinent information regarding the property on request.

This bill assures that homeowners facing non-judicial foreclosure will be able to get timely information, including exactly what it will take to stop the foreclosure, without the run-around experienced in the past when dealing with some mainland lenders.

**HB 2511:** Provides qualified rental assistance applicants up to ninety days to find a qualified rental dwelling.

**HB 2261:** Includes farm sustainable projects in the existing agricultural loan program, and aquaculture sustainable projects in the existing aquacultural loan program.

**HB 2520:** Establishes a working group to explore the provision of wage replacement benefits to employees who need time off from work to care for a family member with a serious health condition.

**HB 2366:** Establishes a statewide organ donor registry.

**HB 3331:** Specifies dispute resolution parameters related to the interpretation or enforcement of a condominium association's by-laws, house rules, or certain other matters.

**HB 2781:** Establishes the Small Business Bill of Rights.



Rep Berg asks questions of the public at a hearing on SB 258, regarding genetic modification of taro. Kalo farmers, and others wanted limited research by the UH School of Tropical Agriculture.

## Citizen Safety

**SB 2245:** Makes it a violation of the statewide traffic code to leave a child unattended in a motor vehicle.

**SB 2345:** Establishes the Children's Bill of Rights to be used by state agencies for issues with children of incarcerated parents.

**HB 3383:** Promotes consistency in sentencing laws by requiring multiple terms of imprisonment, whether imposed at the same time or at different times, to run concurrently unless the court orders or the statute mandates that the terms run consecutively.

**SB 2456:** Creates a new misdemeanor offense of harassment by impersonation.

**HB 3002:** Creates a new offense of habitual solicitation of prostitution, as misdemeanor, if the person pays, agrees to pay, or offers to pay a few to another person to engage in sexual conduct, and has two or more specified prior offenses related to prostitution within ten years of the instant offense.

**HB 3040:** Establishes the new offense of indecent electronic display to a child; updates state offender law to conform to federal laws.

**SB 2218:** Requires electronic monitoring of persons convicted of violating a domestic abuse temporary restraining order or protective order.

**HB 3249:** Prohibits parking of motor vehicles on bicycle lanes or bicycle paths. Assesses up to \$500 fine per violation.

**For information on other legislative measures:**

[www.capitol.hawaii.gov](http://www.capitol.hawaii.gov)



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# LEGISLATIVE SUMMARY

## State Representative Lyla Berg

Vice-Chair, House Committee on Education  
Member: Agriculture; Higher Education; Tourism & Culture;  
Economic Development & Business Concerns

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### Summer 2008

#### *Me Ke Aloha Pau `Ole*

This newsletter is dedicated in memory of Sister **Naomi Correa** and **Dr. Mildred Sikkema**, two extraordinary women of our district who spent their lives in service to the people of our State and who continue to mentor me, even in their absence. Mildred helped me to anchor a clearer mission of community stewardship while attending to citizen empowerment. From Sister Correa, I learned about the delicately structured balance between democratic freedoms and democratic responsibility. Both of these gentle ladies were patient, generous, and genuinely kind as I was developing my own courage to be a discerning decision-maker and visionary leader. We wish their families well.

**Though we travel the world over to find the beautiful, we must carry it with us, or we find it not.**

*Ralph Waldo Emerson*

#### **EMAIL UPDATES:**

If you interested in receiving email updates from Rep. Berg please contact us at:  
**repberg@capitol.hawaii.gov**

#### **POPULAR VOTE BILL NEEDS OPEN PUBLIC DISCUSSION**

*Representative Berg's comments from the House Journal on April 2, 2008, explains her vote against a bill that would enter Hawaii into an interstate compact to determine the winner of presidential elections by "national popular vote":*

"I rise today to speak in opposition to **SB 2898**, Relating to the agreement among the states to elect the president by national popular vote.

This bill would, in effect, amend the U.S. Constitution to bypass the role of the Electoral College in future presidential elections. It would, on the basis of minimal public discussion and debate, overturn two hundred years of constitutional law.

Whether the Electoral College still serves its original purpose is certainly a legitimate question. But this bill has generated little public debate here in Hawaii, has drawn virtually no public testimony in support or opposition, and has not been subjected to the scrutiny that we should rightly expect for such a significant change in our constitutional system of government.

**SB 2898** has been guided through this Legislature by well known lobbyists, who have done an effective job at moving it ahead with little public notice. That may be good lobbying, but it is not good public policy.

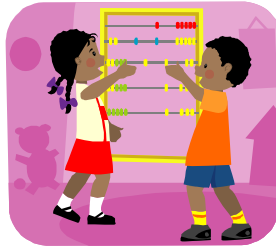
This bill also raises the potential both for unintended consequences and setting an unfortunate precedent. Would this bill strengthen Hawaii's voice in the presidential selection process or reduce it to insignificance? If this measure shunts aside this one constitutional provision by a simple majority vote and without the protections built in to the process of amending the Constitution, will other aspects of the Constitution become fair game in the future?"

SB 2898 was vetoed by the Governor on April 22, 2008.

# Legislation for Improved Education

## Early Childhood Learning System (SB 2878)

Rep. Berg has played an instrumental role in the past four Sessions in sculpting and successfully launching the bill to establish an early learning system, from birth to kindergarten entry, which will eventually be available for every child in Hawaii. The Legislature has long recognized that many of Hawaii's children need fundamental skills for kindergarten entry. While significant milestones have been achieved thus far in promoting young children's development and school readiness through public and private efforts, the current landscape of early learning services is highly fragmented and lacks cohesiveness.



Specific legislation this year officially declares IN STATUTE, the intent and framework to launch a comprehensive, integrated system of QUALITY, ACCESSIBLE, and AFFORDABLE early childhood learning services for all children.

With the official formation of an Early Learning Council through this bill, coherent policies, congruent pathways, and collaborative planning will enable sustainable funding from State and private sources, together with a methodology, to consistently build toward a system that is intended to reach all families. It will take time, public willingness and private participation, however the vision has been articulated through political will. THANK YOU to all who participated and assisted the Legislature to launch this dream into reality.



*Rep. Berg and Dr. Christine Sorenson, Dean of the UH-Manoa College of Education, at a recent dinner where Rep. Berg was honored as a 2008 recipient of the Excellence in Education Award for Transformational Leadership.*

## Funded Projects in the District

- Hawaii 3R's 2006 grants for Kalani High School:
  - \$2,300 to renovate Athletic Director's Office
  - \$21,500 to repaint the interior of the cafeteria
- Hahaione Elementary School received funding, \$134,002, to resurface parking lot 01.

**HB 2972**—Creates the Facilities Alignment Commission to establish criteria for the selection of public schools to be consolidated or closed and to recommend schools for consolidation or closure.

**SB 2163**—Allows individuals to be employed by the Department of Education on an emergency basis for no more than three, rather than four, years. Requires unlicensed individuals who have been hired on an emergency basis to attain licensure no later than four years from the date of their employment.

**SB 2080**—Allows the Hawaii Teacher Standards Board to suspend a teacher's license when the teacher has been convicted of certain sexual offenses and to initiate proceedings to permanently revoke the teacher's license.

**SB 2004**—Extends the deadline within which to file a request for a due process hearing relating to the education of a child with a disability from 90 days to 180 calendar days when the request is for reimbursement of costs of a child's placement.

**SB 3252**—Addresses the teacher shortage in the state through various initiatives.

**SB 2652**—Requires BOE to provide wage adjustments for substitute teachers comparable to the across-the-board wage adjustments negotiated for teachers in collective bargaining unit (5).

## Capitol Improvement Projects (CIP)

School Name	Project Description	Amount
Niu Valley Middle School	(FY 2008) Design and Construction for architectural barrier removal	\$1,000,000
	(FY 2009) Design, construction, and equipment for playground equipment	\$200,000
Wailupe Valley Elementary School	(FY 2008) Design, construction, and equipment for telecommunications upgrades	\$670,000
Liliuokalani Elementary School	(FY 2009) Design and construction for school electrical upgrades	\$512,000
Waialae Elementary School	(FY 2009) Design and construction to enclose school courtyard and build 3 classrooms	\$825,000



# 2008 Session Memories



On January 24, Rep Berg hosted **Enasa Alalem**, an exchange student from the Gaza Strip. The International Hospitality Center brought participating students to the capitol to spend the day as “shadows” to legislators. These students experienced the legislative process in action as they attended hearings, House and Senate Sessions, and met with the Lt. Governor. Enasa shared with us her music, future aspirations, and about her life in Palestine.



(L) Brian Kajiayama with Rep. Berg is recognized for his community service with the University of Hawaii Athletics Department.



(L) Rep. Berg, Sen. English, and Rep. Wakai with fellow Association of Pacific Island Legislators. May 2008.



(R) Rep. Berg, second from left, from row, is a member of the House of Representatives Hawaiian Caucus.



(R) Rep. Berg visits with a parent and child interaction group. Several community groups whose focus is on parents and children participated in this event at the Capitol.



(R) Rep. Berg with Axel Timmerman, Ph.D., at her March 11 Community Forum at Kahala Elementary. The forum focused on the impact of global warming in Hawaii.



(Above) Rep. Berg with teachers being honored by the House of Representatives as Teachers of the Year.



(L) House of Representatives recognize Chaminade University upon receiving the 2007 Presidential Award for Exemplary Community Service, recognizing service to youth from disadvantaged circumstances. (HR 310)

Rep. Berg with Aina Haina students, School Community Council members (above) and former Principal, Justin Mew (right), on the House floor on March 27, 2008. The school was honored for being named a 2008 Blue Ribbon School.



(R) March 13th, 4th Annual Human Rights Day. Our theme this year was “...And Justice For All”. 27 organizations joined us at the Capitol



Legislators and staff “hammered” away at the Habitat for Humanity Awareness Event on April 10. Rep. Berg shares a “hammer” moment with Rep. McKelvey.



(L) Roosevelt HS students visit Rep. Berg for “Kick Butts Day”. (R) Waimea Middle School students and staff drop by for a visit with Rep. Berg.

